

DUCKET FILE COPY ORIGINAL

Before the
Federal Communications Commission
Washington, DC 20554

In the Matter of)	
)	
Request for Review of the)	
Decision of the)	
Universal Service Administrator by)	
)	
Lower Yukon School District)	File No. SLD-171398
Mountain Village, Alaska)	
)	
Federal-State Joint Board on)	CC Docket No. <u>96-45</u>
Universal Service)	
)	
Changes to the Board of Directors of the)	CC Docket No. 97-21
National Exchange Carrier Association, Inc.)	

FCC MAIL SECTION
Nov 24 4 45 PM '03

ORDER

Adopted: November 13, 2003

Released: November 14, 2003

By the Wireline Competition Bureau:

1. Before the Wireline Competition Bureau (Bureau) is a Request for Review filed by Lower Yukon School District (Lower Yukon), Mountain Village, Alaska.¹ Lower Yukon seeks review of SLD's partial denial of its Funding Year 2000 application for discounts under the schools and libraries universal service mechanism.² For the reasons discussed below, we grant the Request for Review and remand to SLD for further consideration.

2. On January 18, 2000, Lower Yukon submitted a Funding Year 2000 FCC Form 471, which included several funding requests.³ At issue in the instant Request for Review is Funding Request Number (FRN) 339038, which requested discounted internal connections from Core Communications, Inc.⁴ In an attachment to its FCC Form 471, Lower Yukon indicated that FRN 339038 was for "Telephone Systems" at 10 schools in the Lower Yukon School District.⁵

¹ Letter from Ray J. Griffith, Lower Yukon School District, Mountain Village, Alaska, to Federal Communications Commission, filed April 18, 2001 (Request for Review).

² Section 54.719(c) of the Commission's rules provides that any person aggrieved by an action taken by a division of the Administrator may seek review from the Commission. 47 C.F.R. § 54.719(c).

³ FCC Form 471, Lower Yukon School District, filed January 18, 2000.

⁴ *Id.*

⁵ *Id.*

The total pre-discount amount for the funding request was \$148,360.75.⁶ Of the total amount, \$12,745.75 of the funding request was for one redundant master media convergence server and \$67,957.50 was for 10 other media convergence servers for each of the individual schools.⁷ As a result, the media convergence servers accounted for over 30% of the total funding request.⁸

3. On August 18, 2000, SLD issued a Funding Commitment Decision Letter that denied funding for FRN 339038 on the grounds that "30% or more of this FRN includes a request for media convergence server which is an ineligible product based on program rules."⁹ On September 18, 2000, Lower Yukon filed an appeal with SLD asserting that the funding request was for eligible services, and was therefore eligible for support.¹⁰

4. On March 27, 2001, SLD denied the appeal.¹¹ SLD responded that according to program rules, media convergence servers are ineligible services.¹² In its review of Lower Yukon's application, SLD concluded that the media convergence servers were not eligible after determining that they would be used to transform voice to Internet protocol for purposes of Internet telephony. As a result, because SLD determined more than 30% of FRN 339038 was for ineligible services, the funding request was denied.¹³ Subsequently, Lower Yukon filed the instant Request for Review.¹⁴

5. After review of the record, we find it appropriate to remand this matter to SLD. On remand, USAC should determine whether the equipment in question – media convergence

⁶ *Id.*

⁷ *Id.* A Media Convergence Server is a product sold by Cisco that can support telephony and video over a traditional data network system.

⁸ Applicants may only seek support for eligible services. 47 C.F.R. § 54.504 *et seq.* Although SLD reduces a funding request to exclude the cost of ineligible services in circumstances where the ineligible services represent less than 30 percent of the total funding request, SLD will deny a funding request in its entirety if ineligible services constitute more than 30 percent of the total. See 47 C.F.R. §54.504(c)(1); *Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Second Report and Order and Further Notice of Proposed Rulemaking, FCC 03-101 (rel. April 30, 2003), paras. 40-41; *Changes to the Board of Directors of the National Exchange Carrier Association, Inc., Federal-State Joint Board on Universal Service*, CC Docket Nos. 97-21 and 96-45, Third Report and Order in CC Docket No. 97-21 and Fourth Order on Reconsideration in CC Docket No. 97-21 and Eighth Order on Reconsideration in CC Docket No. 96-45, 13 FCC Rcd 25058 (1998).

⁹ Letter from Schools and Libraries Division, Universal Service Administrative Company, to Brett Hill, Lower Yukon School District, dated August 18, 2000.

¹⁰ Letter from Ray Griffith, Lower Yukon School District, to Schools and Libraries Division, Universal Service Administrative Company, filed September 18, 2000.

¹¹ Letter from Schools and Libraries Division, Universal Service Administrative Company, to Ray Griffith, Lower Yukon School District, dated March 27, 2001.

¹² *Id.*

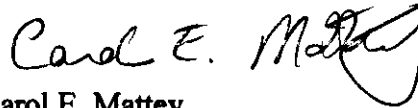
¹³ *Id.*

¹⁴ See Request for Review.

servers – meet the definition of internal connections set forth in the Commission's rules and orders. Specifically, the relevant issue is whether this equipment is "necessary to transmit information within one or more instructional buildings of a single school campus."¹⁵ The type of technology employed to provide this functionality is not relevant to the eligibility determination.

6. ACCORDINGLY, IT IS ORDERED, pursuant to authority delegated under sections 0.91, 0.291, and 54.722(a) of the Commission's rules, 47 C.F.R. §§ 0.91, 0.291, and 54.722(a), that the Request for Review filed by Lower Yukon School District, Mountain Village, Alaska, on April 18, 2001 is GRANTED and this application is REMANDED to SLD for further action consistent with this Order.

FEDERAL COMMUNICATIONS COMMISSION



Carol E. Matthey
Deputy Chief, Wireline Competition Bureau

¹⁵ See 47 C.F.R. §54.506.